

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: James A. Most, M.D.

Docket No. MPN 94-0902

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STIPULATION AND INTERIM CONSENT ORDER

NOW COME James A. Most, M.D. (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and Assistant Attorney General James S. Arisman, and agree and stipulate as follows:

1. James A. Most, M.D., Respondent, holds Vermont Medical License Number 042-0010395, issued on May 2, 2002.
2. Jurisdiction vests with the Vermont Board of Medical Practice (Board), pursuant to 26 V.S.A. §§ 1353, 1354, & 1398 and 3 V.S.A. §§ 809 & 814(c).

I.

3. Respondent acknowledges that the Vermont Board of Medical Practice on September 25, 2002 opened a complaint as to possible unprofessional conduct by him. The Board of Medical Practice opened this complaint based on media reports and the Board's preliminary inquiries related to a serious traffic accident in Newfane, Vermont in which Respondent was involved.

4. The Board's investigation of this matter is ongoing. Respondent acknowledges that Board investigation of the circumstances related to the traffic accident in which he was involved is appropriate. Respondent wishes to cooperate with the Board of Medical Practice with regard to the above-captioned matter and recognizes the Board's obligation in all cases to act expeditiously to protect the public health, safety, and welfare.

5. No formal charges have been filed against Respondent by the Board. Thus, he enters here no response to any allegations that may be raised at a later date regarding this matter. Respondent, however, acknowledges that he has determined, knowingly and voluntarily, that he wishes to agree to the terms and conditions set forth below in recognition of the responsibility of the Vermont Board of Medical Practice to protect the health, safety, and welfare of the public.

II.

6. Respondent acknowledges that he is voluntarily agreeing to this Stipulation and Interim Consent Order. He acknowledges that he has had advice of counsel in this matter and is satisfied with such advice and related representation. Respondent agrees and understands that by executing this document he is waiving such rights as he may possess, at this time, to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, and to a public hearing on a motion by the State for summary suspension of his license to practice medicine. 3 V.S.A. §§ 809 & 814.

7. Entering no admission here and solely for purposes of cooperating with the Board of Medical Practice, Respondent agrees that the Board may enter the finding required under 3 V.S.A. § 814(c) and may enter an order summarily suspending his Vermont license to practice medicine pending further proceedings or order of the Board. See Paragraph 8, immediately below.

8. Respondent agrees, pending further proceedings or order of the Board of Medical Practice, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; 3 V.S.A. § 814(c) to:

- (a) cooperate fully with further investigation of this matter by the Board of Medical Practice;
- (b) accede to referral of his name to the Vermont Practitioner Health Program (VPHP) of the Vermont Medical Society and to cooperate fully, promptly, and in good faith with any and all reasonable recommendations or suggestions that may result from his involvement in such program; Respondent shall bear any and all costs;
- (c) authorize the VPHP Program to report immediately to the Board of Medical Practice any apparent noncompliance on his part with subsection (b), above;
- (d) authorize the VPHP Program to report to the Board of Medical his compliance with subsection (b), above, and to report to the Board whether he is able to practice medicine safely;
- (e) cease and desist, effective immediately, pursuant to interim order of the Board, from any and all practice of medicine, regardless of location, for a period of at least 60 days to permit review of all facts and circumstances in this matter by the Vermont Practitioner Health Program and reasonable recommendations or suggestions to Respondent by the Program; see subsection (b), above; in this regard Respondent expressly agrees to authorize the VPHP Program to report to the Board the nature of his compliance with subsection (b), above, and to report to the Board of Medical Practice all recommendations or suggestions made to Respondent by the Program and the basis for these;
- (f) upon expiration of the 60 day period, described above in subsection (e), the State may file a motion, if warranted by the facts, to continue the period during which Respondent shall cease and desist from the practice of medicine; and following expiration of the 60 day period, described above in subsection (e), Respondent may file a motion, if warranted by the facts, to end the period during which Respondent shall cease and desist from the practice of medicine and to substitute, if warranted by the facts, conditions of licensure intended to protect the health, safety, and welfare of the public; the Board shall promptly consider and promptly decide any such motion; in the interim Respondent shall continue to cease and desist from the practice of medicine until further order or action of the Board in this regard;
- (g) adhere to all terms and conditions set forth above and herein until relieved of such obligation by further order of the Board; in lieu of such further order, Respondent may demand a prompt hearing on the merits of any allegations or charges that may be presented in this matter, as provided for in Paragraph 10, below.

9. The parties agree that no promises have been made regarding final disposition of this matter. The parties further agree that nothing contained herein shall limit the Board's authority to proceed in this matter, if deemed appropriate at a later date, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; 3 V.S.A. § 814(c); and other relevant authorities.

10. The parties agree that nothing contained herein shall limit Respondent's right to seek at a later date prompt presentation of a formal specification of charges and to demand a prompt hearing on the merits regarding these charges, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; 3 V.S.A. § 814(c); and other relevant authorities. Respondent agrees that no promises have been made to him as to final disposition of this matter.

11. The parties further agree that nothing contained herein shall limit Respondent's right to present a motion at a later date for modification of the terms herein based on the nature of his specific compliance with the terms set forth in Paragraph 8, above, and his general compliance with this agreement. The Board agrees to carefully review and consider any such motion. Respondent agrees that no promises have been made to him as to what action the Board might take on any such motion. Respondent agrees that the Board shall retain sole discretion to approve or deny such motion following its review of the facts and circumstances before it.

III.

12. The parties agree that this Stipulation and Interim Consent Order shall be a public document, shall be made part of Respondent's licensing file, and may be reported to other licensing authorities. The parties agree that an interim order summarily suspending Respondent's license to practice medicine may be entered, as described herein, and pending

further proceedings or order of the Board. Nothing herein is intended to limit Respondent's right at a later date to demand and receive a formal specification of charges, file motions and pleadings, pursue discovery, to contest all charges against him, to present evidence or witnesses on his behalf, and to require proof as to any allegations against him in a hearing before the Board.

13. This Stipulation and Interim Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void. If approved, Respondent agrees to be bound by the terms and conditions of this Stipulation and Interim Consent Order pending further proceedings or order of the Board of Medical Practice. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce the terms and conditions of this Stipulation and Interim Consent Order until it is modified or he is relieved of its terms and conditions. Respondent agrees that failure by him to abide by any of the terms and conditions of this Stipulation and Interim Consent Order may constitute unprofessional conduct under 26 V.S.A. § 1354(25) and may subject Respondent to such disciplinary action as the Board may deem appropriate, following evidentiary proceedings.

14. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Interim Consent Order be deemed acceptable by the Board of Medical Practice, the Board may enter the findings described above and an order summarily suspending Respondent Most's license to practice medicine, as described herein.

Dated at Montpelier, Vermont, this 2nd day of October 2002.

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Bennington, Vermont, this 2^d day of October 2002.

James A. Most, M.D.
JAMES A. MOST, M.D.
Respondent

Dated at Bennington, Vermont, this 2^d day of October 2002.

David F. Silver, Esq.
DAVID F. SILVER, ESQ.
Counsel for Respondent

FOREGOING, AS TO MEDICAL LICENSE OF
JAMES A. MOST, M.D., APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Harry Chen MD

Edward A. Stearns MD

[Signature]

David C. Cullen

Margaret B. B. B.

[Signature]

[Signature]

Frederic D. F.

Ed. J. P.

[Signature]

[Signature]

[Signature]

DATED: October 2, 2002

ENTERED AND EFFECTIVE: October 2, 2002

JSA: MOST STIPULATION II: 1002 (NOT FULLY EFFECTIVE UNTIL APPROVED BY BOARD)